

LAND USE CONTROL BOARD RECOMMENDATION

CASE #: U.V. 08-11 CC

At its regular meeting March 12, 2009, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application requesting a use variation on the property described as follows:

LOCATION: West side of Collierville-Arlington Rd., immediately north of Mary's Creek

OWNER/APPLICANTS: John & Kristina Laiché

PROPERTY SIZE: 6.96 acres

EXISTING ZONING: Agricultural (AG) District

REQUEST: Use variation for office / warehouse for an electrical contractor

Gene Bryan, 8922 Hickory Trail, 38018 spoke as *representative* of the applicant, who had built a business on the subject property that is now deemed to be beyond the scope of the original approval. Mr. Bryan stated that the use is screened from nearby properties and that the relatively low volume of traffic generated does not have a significant impact. He also pointed out that that flood zones and utility easements would make the property difficult to fully develop with the "highest and best use" available in the Agricultural (AG) District. The flooding and floodway obstruction potential of the site had been dealt with by the siting of the building and a large culvert built over the Mary's Creek tributary.

Speaking in opposition were *Greg Hall, 550 N Collierville-Arlington Road, 38017; Alex Tartera, adjoining property owner; and Commander John Bogan, President, Fisherville Civic Club*. They indicated that the regulations do not justify the proposed use in an agricultural-rural residential area. No specific hardship was shown, and the property is still usable as a site for a personal residence. The requested use is commercial in nature and therefore out of character with the existing uses. The Gray's Creek Plan identifies areas where commercial uses would be allowed; and this is not one of those locations. A question was raised as to whether the septic system could function properly given the proximity of the floodplain.

James Toles, the *Land Use Control Board Chairman* indicated that he was having difficulty understanding the case for a hardship. **Mary Baker, OPD, Acting LUCB Secretary**, pointed out that the regulations for Use Variances specifically state that an inability to achieve the "highest and best use" is an insufficient proof of hardship.

The Land Use Control Board reviewed the use variation application and the report of the staff. Without any discussion of the site plan conditions, a motion was made and seconded to approve the application as presented. The motion to approve failed by a unanimous voice vote.

In their action the Board concurred with the OPD analysis as presented in the staff report.

Respectfully submitted,

David G. Adams for
Mary L. Baker, Deputy Director
Office of Planning and Development

SITE PLAN CONDITIONS

U.V. 08-11 CC

Office / Warehouse for Electrical Contractor at 475 N Collierville-Arlington Road

Based on Conditions Considered by the Land Use Control Board

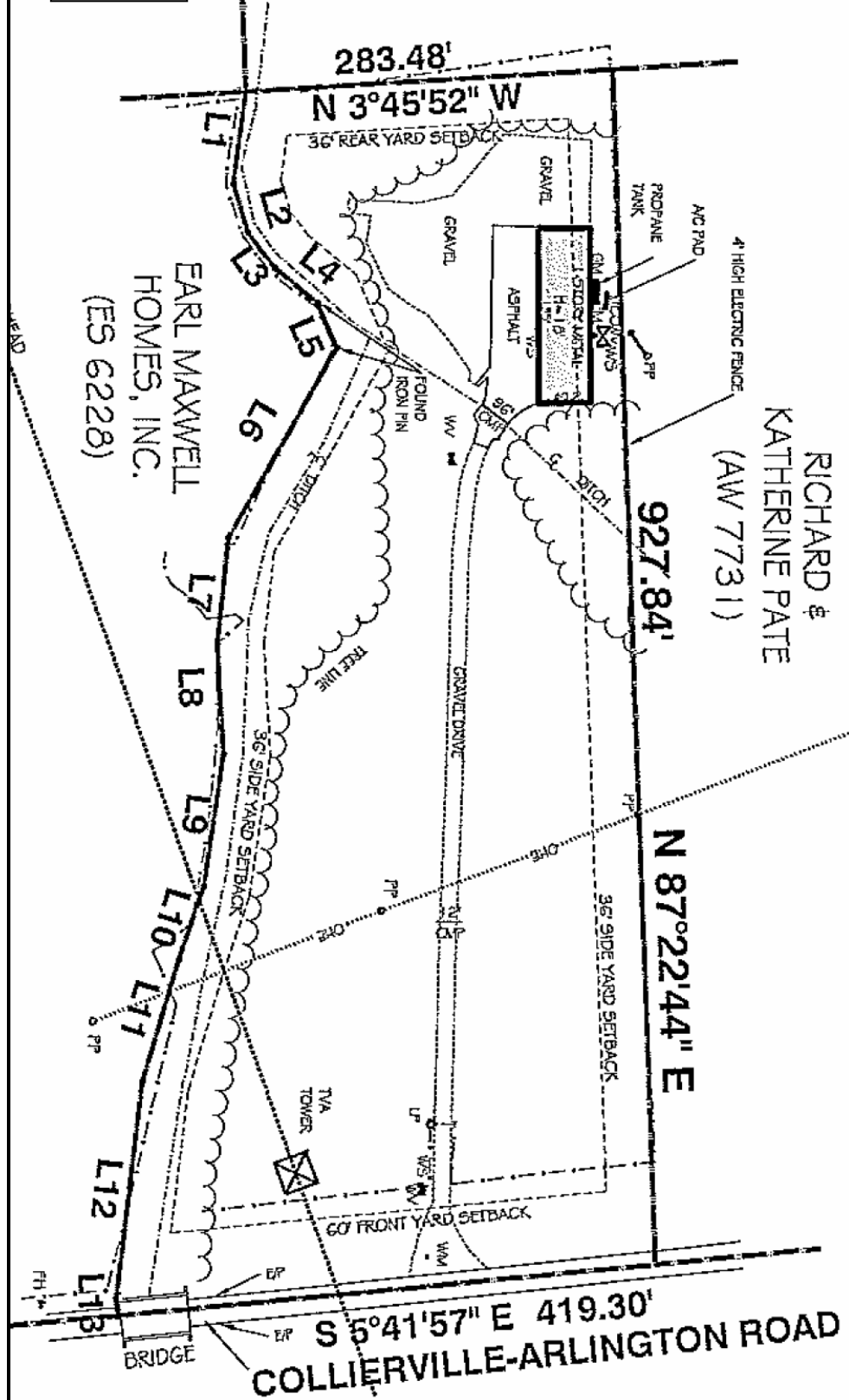
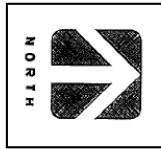
March 12, 2009

A Use Variation is hereby approved to allow John Laiché to operate an office / warehouse as the primary location for an electrical contracting business on the property located at 475 N Collierville-Arlington Road (*Instrument # 06174610, Shelby County Register*) in accordance with the approved site plan and the following supplemental conditions:

1. Neither additions to the existing building nor any expansion of the site area devoted to this use shall be permitted.
2. No signage shall be permitted that would be visible from off-site.
3. All on-site outdoor lighting to be screened or directed so as to prevent visibility from off-site at any season.
4. No trucking movements shall be permitted onsite or arriving or departing except between 5 AM and 7 PM. Mondays through Fridays. Light duty (pick-up) trucks shall be exempt from this prohibition.
5. Prior to the issuance of a use and occupancy permit, the site plan shall be optimized with respect to parking layout and landscape plans so as to insure no visibility of truck parking or transfer operations from off-site. The final site plan shall be subject to the approval of the Land Use Control Board as a correspondence item, with full notification and a right of appeal to the legislative bodies by either the applicant or any citizens in attendance at the Land Use Control Board hearing.
6. The site plan shall show base flood elevation and actual elevation of the warehouse floor. The culvert over the lateral stream branch shall be assessed with respect to possible floodway restrictions or encroachments, including the culvert installed along the access drive.*. All other requirements of FEMA for participation in the flood insurance program shall be complied with before a use and occupancy permit shall be granted, including any floodway encroachments
7. All regulations of the Memphis and Shelby County Health Department to be complied with in respect to approval of septic tank systems on the property.
8. If the County Engineer, finds that that this 7-acre parcel is not exempt from the requirement to subdivide due to drainage issues, final approval of the site plan shall not occur until a subdivision has been approved by the Land Use Control Board.*
9. Certification is required from City and County Engineering with respect to the possible need for additional stream bank stabilization measures.*
10. This variation shall expire 12 months after having been approved by the Shelby County Board of Commissioners.

* Highlighted (shaded) text may be dropped as recommended by the City and County Engineering Departments

CAROLINE MILOT
DAVID & DENISE PELLIGRINI

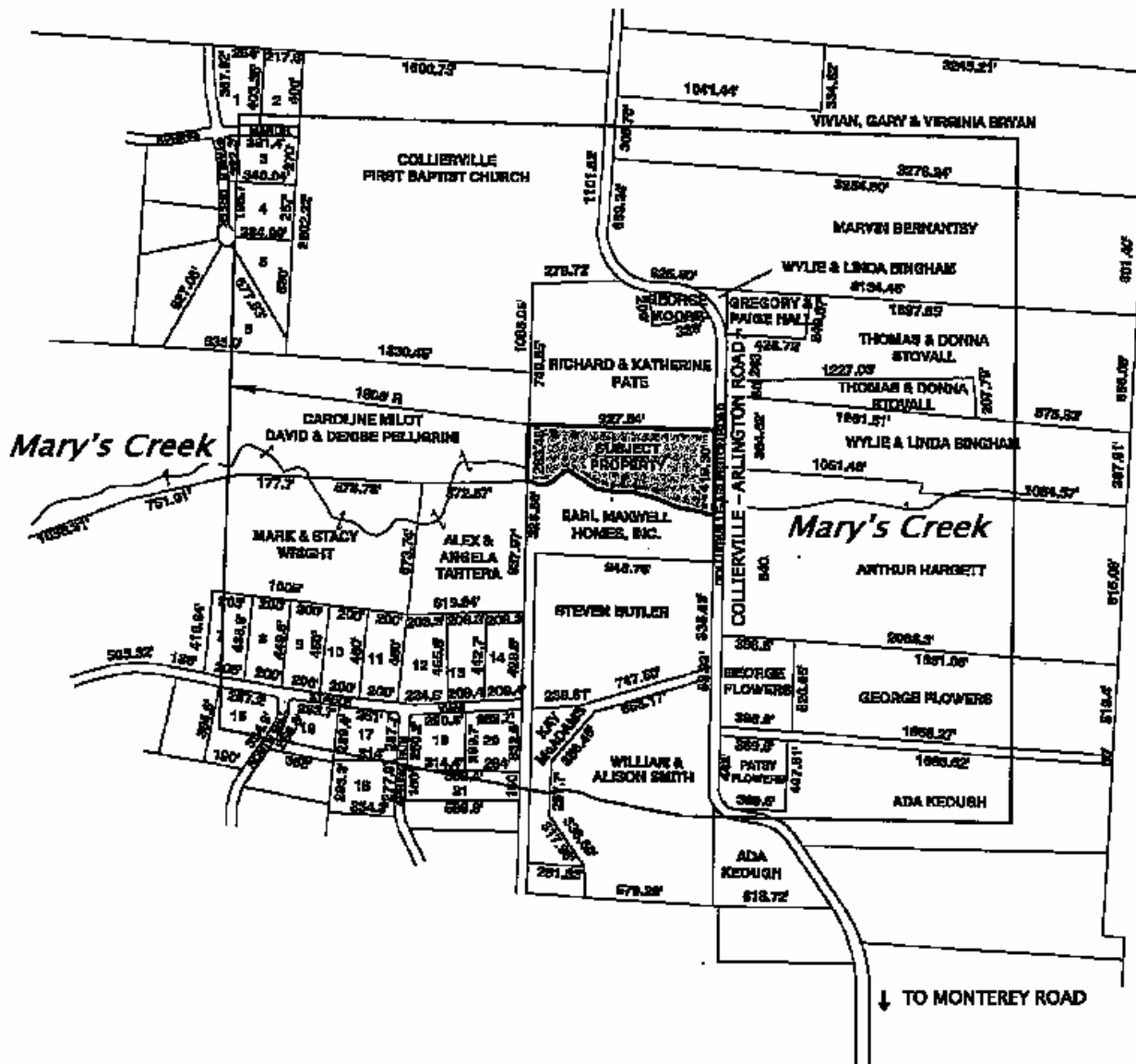


Proposed Site Plan

1. CHRISTOPHER & TONI BRAZOSI
2. STEPHANIE SMITH
3. HOWARD & GINA RHODES
4. JOHN & JACQUELINE DESHRETT
5. JAMES & LINDA VONDERY
6. RONALD & MELONY KIM

7. VINTAGE HOMES, LLC
8. VINTAGE HOMES, LLC
9. VINTAGE HOMES, LLC
10. VINTAGE HOMES, LLC
11. TONY & JENNIFER McKESSIC
12. ALEX & ANGELA TARTERA
13. ALEX & ANGELA TARTERA
14. ALEX & ANGELA TARTERA

15. ROBERT FORTUNE, III
16. JOHN & JANICE ADDISON
17. JORGE & ARIOLA DECHOA
18. VINTAGE HOMES, LLC
19. FRED STRICKLIN
20. GERALD & MICHELLE ALEXANDER
21. STEPHEN & VIRGINIA RICH



VICINITY MAP

475 N. COLLIERVILLE-ARLINGTON ROAD

COLLIERVILLE, TENNESSEE
SEPTEMBER, 2008



McCaskill & Associates, Inc.

Land Surveying Civil Design Mapping

7620 Appling Center Drive, Suite 108

Memphis, Tennessee 38133

E-Mail address: Temccaskill@AOL.com

(901) 382-2577 FAX (901) 385-1813

INDEX OF NEIGHBORHOOD COMMENTS IN STAFF REPORT

- p. 15 Comments in opposition from Gray's Creek Neighborhood Association
- p. 15 Comments in opposition from Estates of Spring Mill Homeowner's Association

- Exhibit B-1 E-Mail in opposition by William Smith, 329 N Collierville-Arlington Road
- Exhibit B-2 E-Mail in opposition by Kay McAdams, 355 N Collierville-Arlington Road
- Exhibit B-3 E-Mail in opposition by George Flowers, 360 N Collierville-Arlington Rd.
- Exhibit B-4 E-Mail in opposition by W Wayne Bingham, 540 N Col.-Arl. Rd
 & George Flowers
- Exhibit B-5 E-Mail in opposition by Greg Hall, 550 N Collierville-Arlington Road

- Exhibit C Letter in opposition by Thomas G. & Donna S Stovall, 546 N Collierville-Arlington Rd.

ADDITIONAL NEIGHBORHOOD INPUT

- Petition in Opposition – Included In Forwarding Package

To: David Adams
Memphis & Shelby County Office of Planning & Development


From: W. Wayne Bingham
540 N. Collierville-Arlington Rd.

Subject: Case #: UV08-11CC
John & Kristina Laiche
Use variance at 475 N. Collierville-Arlington Rd.

Date: January 29, 2009

Please find enclosed a petition opposing the request for a variance for an office/warehouse at 475 N. Collierville-Arlington Rd., Collierville TN 38017. There is also enclosed a letter from Kay McAdams and Steve Butler opposing the variance and their reasons for opposition.

Enclosures:
Petition from Fisherville Civic Club and community homeowners
Letter from Kay McAdams and Steve Butler

January 13, 2008

ZONING VARIANCE OBJECTION

We the undersigned object to the request for a variance for office/warehouse use at 475 N. Collierville-Arlington Rd., Collierville TN 38017. This request is active before the Memphis and Shelby County Office of Planning and Development (case # U.V.08-11cc). The property is currently zoned for agricultural/ residential use only.

NAME	ADDRESS
1. Susan Logan	2332 N Reid Hooker Rd Eads TN
2. Frankie Rea Jones	11509 Macon Eads 38018
3. Helen Sater	919 Reid Hooker Rd. Eads
4. Remy Galt	11340 Townwinds Dr EADS 38028
5. Thomas A. Sater	919 Reid Hooker Rd EADS TN 38028
6. Jewel Waller	441 Barbara Lane, Eads, TN 3802
7. Mrs. J. K. Strong	11338 Monterey "
8. Suzette Petersen	" "
9. Rebecca A. Zayton	12011 Monterey Eads 38028
10. Adam Barton	12011 Monterey Rd. EADS 380
11. William H. Hays	10129 RHEIN - 2A GRAD 3802
12. Martha York	916 Billy Bryant Rd, Collierville 38
13. Earl Russell	2530 Wind Creek Dr 38028
14. John C. Ray	2332 N. REID HOOKER, EADS TN 380
15. Ruth Galt	11340 Townwinds Dr Eads TN 380:
16. Wayne Bingham	540 N. Collierville Arl Rd Collierville, TN 38
17. Linda H. Bingham	540 N. Collierville - Arlington Rd, Collierville TN
18. Patsy H. Floman	360 N. Collierville - Arlington Rd., Collierville, TN
19. W H Cade	10981 Macon Rd Eads 38028
20. Virginia Cade	10981 Macon Rd Eads 38028

21. *[Signature]* 308 N. COL. ARL RD 38017
22. *[Signature]* 308 N. COL. ARL RD 38017
"N/A"

23. Judy K. Wah 288 N. Coll. ARL Rd Coll. TN. 38017
 24. ~~Tom R. Wah~~ 288 N. Coll-Arl Rd Collierville TN 38017
 25. James R. Wahs, a 288 N Coll-Arl Rd Collierville, TN 38017
 26. Ada P. Keaugh 296 N. Collierville Arlington 38017
 27. George W. Flowers 360 N. Coll/ARL. 38017

ADDRESSES REPRESENTED			# of signers
288 N Collierville-Arlington	38017		3
296 N Collierville-Arlington	38017		1
308 N Collierville-Arlington	38017		2
360 N Collierville-Arlington	38017		2
540 N Collierville-Arlington	38017		2
916 Billy Bryant	38017		1
441 Barbara Lane	38028		1
11340 Fourwinds Dr	38028		2
11509 Macon Rd	38028		1
10981 Macon Rd	38028		2
11338 Monterey	38028		2
12011 Monterey	38028		2
10129 Raleigh-LaGrange	38028		1
2332 N Reid Hooker	38028		1
919 N Reid Hooker	38028		2
2332 N Reid Hooker	38028		1
2530 Windcliff Dr	38028		1
TOTAL			27